THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NOs. 4541, 4542,4543,4544 and 4545 OF 2007

DATED: 06-03-2007

Between:

W.P.No.4541 of 2007:

M/s. R. Rajanna Trading Company, Karimnagar,
Rep.by its Proprietor M. Manohar, S/o. Veeresham … Petitioner

And

The District Collector (Civil Supplies) Karimnagar]
And three others

… Respondents

W.P.No. 4542 of 2007:

M/s. Sai Kiran Traders, Karimnagar,
Rep. By its Proprietor S. Satyanarayana

… Petitioner

And

The District Collector (Civil Supplies) Karimnagar]
And three others

… Respondents

W.P.No. 4543 of 2007:

M/s. Sai Enterprises, Karimnagar,
Rep. Byn its Proprietor P. Laxma Reddy

… Petitioner

And

The District Collector (Civil Supplies) Karimnagar]
And three others

… Respondents

W.P.No. 4544 of 2007:

M/s. Mahesh Kumar & Co., Karimnagar,
Rep. By its Partner Vijaya Kumar Mundada

… Petitioner

And

The District Collector (Civil Supplies) Karimnagar]
And three others

… Respondents

W.P.No.4545 of 2007:

M/s. Suresh Enterprises, Karimnagar,
Rep. By its Proprietor Gade Neelakantam

… Petitioner

And

The District Collector (Civil Supplies) Karimnagar]
And three others

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NOs. 4541, 4542,4543,4544 and 4545 OF 2007

COMMON ORDER:

All the petitioners herein purchased and stored scheduled commodities without having licences under the A.P. Scheduled Commodities (L&D) Order, 1982, which is in force. They claim to have subsequently acquired the licences. The premises of the petitioners were inspected by the Vigilance and Enforcement Wing of the respective Districts in which their businesses were operated and the unauthorisedly stored stocks of the scheduled commodities were seized after recording mediators reports. By separate orders impugned in these writ petitions, the Collectors concerned purportedly exercising power, authority, jurisdiction and discretion under Section 6-A(2) of the Essential Commodities Act, 1955('the Act') directed interim disposal of the seized commodities even before the cases initiated against the petitioners under Section 6-A of the Act were disposed of finally.

Such a power to order interim disposal by a Collector is however neither unlimited nor un-canalized. Section 6-A(2) of the Act mandates that the Collector may order inter alia the sale of the essential commodities if the essential commodities are subjected to speedy and natural decay or it is otherwise expedient in the public interest to do so. These are the legislative conditions precedent to the exercise of discretion under Section 6-A(2) of the Act.

In each of the impugned orders directing interim disposal of the seized commodities, the Collectors concerned have recorded that the essential commodities would be spoilt if stored for a long period and therefore, they have to be made available to the consumers and accordingly decided to dispose of the seized stock under Section 6-A(2) of the Act.

None of the seized commodities per se and without any special attendant circumstances like the age of the commodity, the specific climatic conditions or any other special conditions, are subject to speedy and natural decay. They are all pulses and as such, cannot be rationally considered to be subject to speedy and natural decay, one of the conditions mandated by the legislature for exercise of discretion under Section 6-A(2).

On a query from this Court, the learned Government Pleader for Civil Supplies submits that such a laconic order recording that the commodities would be spoilt if stored for long, is perverse and does not accord with the text or the purposes for which the extraordinary power of interim disposal is conferred under Section
6-A(2) of the Act.

On facts and in the light of the submissions made by the learned Government Pleader for Civil Supplies, this Court is satisfied that each of the impugned orders in the above writ petitions is perverse and the product of a gross non-application of mind to the limitations on the exercise of powers, engrafted in Section 6-A(2) of the Act.

Accordingly, the orders impugned in the writ petitions are quashed and the writ petitions are allowed. The District Collectors concerned are, however, at liberty to pass fresh orders in accordance with law, duly conscious of the limited and conditioned power available under Section 6-A(2) of the Act. Till a fresh order as above is passed by the District Collectors concerned, the seized commodities of the petitioners shall not be subjected to interim disposal under Section 6-A(2) of the Act.

_____

GODA RAGHURAM, J.

Dt: 06-03-2007

***Note**: Issue C..C..within*
Two days.
(B/O)
Rns.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NOs. 4541, 4542,4543,4544 and 4545 OF 2007

DATED: 06-03-2007